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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

Federal-State Joint Board on
Universal Service

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Public Notice re:
CC Docket No. 96 - 45
[DA 96-1891]

REPLY COMMENTS OF
AMERICAN LIBRARY ASSOCIATION
ON QUESTIONS IN PUBLIC NOTICE OF
November 18, 1996

Submitted,
January 10, 1996

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1 Introduction and Review of ALA Comments

The American Library Association (ALA) respectfully submits these Reply Comments to elaborate on and clarify points that have been raised previously in our comments and those of other filers regarding the Recommended Decision adopted on November 7, 1996 by the Federal-State Joint Board on Universal Service.

As stated previously and by others, ALA believes that by allowing discounts to apply to any available telecommunications service, this recommended decision provides maximum flexibility for libraries to choose those telecommunications services that best serve the needs of their communities. ALA also believes that the 20%-90% range of discounts can provide for significant and meaningful discounts for libraries if indexed to appropriate measures of economic need and, in high cost areas, if applied to reasonably comparable prices for similar services in low cost areas. ALA will be providing additional information below to demonstrate how data which already forms the basis for the outreach services portion of the Library Services and Technology Act, can be used to effectively allocate discounts in conformance with the Recommended Decision. ALA also recommends that in determining a lowest corresponding price for services the FCC define similar services so that services offered either by tariff or through contract are considered in establishing the lowest comparable price. Furthermore, "similarly situated nonresidential customers" should not be so narrowly defined as to exclude comparable customers whose situation only marginally differs from that of the eligible institution.

Efforts to minimize the administrative burdens placed on libraries by allowing self-certification of eligibility for the discounts should also be implemented. Differences in situation should be limited to those factors that demonstrably and significantly impact the direct cost of providing a service in one area versus another and/or one customer versus another. As was noted in the Recommended Decision, the fund administrator could check or audit such self-certifications.¹ ALA continues to urge the Commission to implement rules that would allow efficient and effective discount support mechanisms, including appointment of a neutral fund administrator, to be implemented so that discounted services can be deployed by the 1997-1998 school year.

2 Discount Methodology

ALA recommends a two step process for determining the amount of discount for eligible institutions consisting of first, an equalization of prices between high cost and low cost areas, where necessary, and second, a determination of an appropriate discount based on an indicator of economic condition for the eligible institution's area.

Step 1 - High cost adjustment

Derive a low cost threshold based on loop costs. (The Joint Board's recommended threshold is at the 67th percentile-the lowest two-thirds.) The high cost discount for a particular institution would be the ratio of the low cost threshold to the loop cost in its particular area. This discount rate, applied to the lowest comparable price (LCP) in the institution's area, would be the

¹Federal-State Joint Board on Universal Service Recommended Decision, November 7, 1996 paragraphs 601-604..

high cost adjustment.

ALA emphasizes that discounts for high cost areas are not only appropriate, they are clearly **called for in the law**. Universal Service principle (3) not only expresses such a consideration as an explicit intent of the law, it also states what the proper goal of the discount should be. Principle (3) says:

ACCESS IN RURAL AND HIGH COST AREAS.--Consumers in all regions of the nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, *including interexchange services and advanced telecommunication and information services*, ... that are available at rates that are *reasonably comparable to rates charged for similar services in urban areas*." (ALA emphasis) Section 254 (b) (3).

Using unseparated loops costs as a surrogate for determining "high cost" is consistent with the ALA suggestions in previous filings. The method proposed by the Joint Board is based on the comparisons of unseparated loop costs within a region. The assumption is that this would be a useful surrogate for determining relative costs of all special services. Although ALA has as yet seen little or no comparative data on which to base that assumption, such a surrogate may well be a convenient and useful method of estimating eligibility and, as we will argue below, provide the basis for calculating the appropriate discount to be applied.

Step 2 - Low income adjustment

Once an LCP has been determined, the libraries would self-certify the degree of poverty within the service area in order to received the corresponding level of discount as indicated in Table 2 or some similarly based table.

As was noted in ALA's prior comments, the new Library Services and Technology Act

(LSTA), which replaces the former Library Services and Construction Act (LSCA), is the newly updated reference for library eligibility. A poverty factor specified in LSTA for targeted library and information services provides a more appropriate alternative method of determining eligibility for deeper discounts for libraries in low income areas.

Regarding the outreach services portion of LSTA, the statute (subsection 231(a)(2)) refers to "families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved." As was noted in ALA's original filing on the Recommended Decision, this determination is based on data derived from the U.S. Census Bureau and this data can be easily adapted, as we demonstrate below, for use in a series of step discounts as was recommended by the Joint Board.

ALA has taken a sample of library outlets, which may be a main or branch library facility, from the most recently available National Center for Education Statistics (NCES) data which reflects public library data for 1993. Table 1 shows the sample size and the percentage of library outlets falling inside and outside metropolitan areas.

Table 1

	Total Number	Percentage
Number of Library Outlets in Sample	500	100.00%
Library Outlets in Metropolitan Areas	239	47.80%
Library Outlets in Non-Metropolitan Areas	261	52.20%

Table 2 shows how this sample was matched against 1990 U.S. Census poverty data. Column A shows the percentage of poverty residents within a 1-mile radius of library outlet. This 1-mile radius serves as an approximation for a library outlet's service area. Column B shows the percentage of the sample in each category. The break points for Column A were specifically designed to approximate the distributions of schools in the chart referred to in the Recommended Decision in paragraph 555. Column C represents the percent discount category corresponding to each poverty range. Columns D and E represent the number of library outlets in metropolitan and non-metropolitan areas respectively, for each of these poverty ranges.

Table 2
Percentage Poverty Within 1-Mile Radius of Library Outlet

	A	B	C	D	E
	Percentage of Poverty Residents Within 1 Miles Radius of Library Outlet	Percentage of Library Outlets from Sample in Each Poverty Category	Percentage Discount Category	Percentage of Sampled Library Outlets in Metropolitan Areas in Each Poverty Category	Percentage of Sampled Library Outlet in Non-Metropolitan Areas in Each Product Category
1	0-3%	3.00%	20	7.53%	1.15%
2	3-9%	30.70%	40	37.66%	22.99%
3	9-13%	19.00%	50	17.57%	22.22%
4	13-16%	15.00%	60	8.79%	22.22%
5	16-22%	16.00%	80	10.46%	18.39%
6	22-100%	16.30%	90	17.99%	14.56%
7	Total Percent	100.00%		100.00%	100.00%

Using this or a similarly constructed table as the index, libraries would self-certify the

poverty level within their service area in order to receive the corresponding discount in Column C. For example, if a library system self-certified that within its service area, 15% of its residents were poverty residents, the library system would qualify for a 60% discount. If another library system self-certified that within its service area 7% of its residents were poverty residents, that library would qualify for a 40% discount.

In order to maximize the effectiveness of the discounts, where a library consists of a main and 1 or more branch libraries, the library system should be allowed the option to report each branch service area separately and allocate the discounts accordingly. In either case, the library would still be required to maintain records documenting its procedures for reporting the level of its discount eligibility.

It may be that to provide greater consistency, the poverty index should be based not solely on the number of residents at or below the poverty level, but rather on the number of residents who are within 185% of the poverty line. It is ALA's understanding that this figure more closely resembles the way school lunch and other similar programs are calculated. ALA recommends that the poverty index used for libraries be applied in a comparable fashion to the application to schools.

To summarize, ALA proposes a two step process to derive the appropriate discount and to take into account both high cost and low-income needs. For the moment, we will assume that unseparated loop costs are a reasonable surrogate for the differential between high cost and low cost areas.

3 Carry over of funds

Some respondents have expressed concerns about the Joint Board's recommendation that unspent universal service funds be carried over to the next year. ALA supports the Joint Board's recommendation to allow such carryover for disbursement in later years. Allowing carryover would encourage libraries and schools to plan and schedule their telecommunications expenditures more effectively and efficiently. Barring carryover would create artificial deadlines and incentives to make hasty commitments. Furthermore, allowing carryover would buffer the demands on the universal service fund against year-to-year variations in investments by schools and libraries.

Over the long term, if the cap overstates the demands placed on the universal service fund by the proposed discount program, unrestricted carryover could swell the fund to an unmanageable level, creating again, incentives for inefficient or ill-considered investments. ALA recognizes that as a legitimate concern and suggests that the Commission may wish to either revisit this particular question in two or three years when it reviews the program and, if the fund is growing too large, institute a cap on carryovers or place a reasonable cap (say, three times the annual cap) on the amount of carryover allowed or a time limit (say, two years) on how long carryover funds from each year remain available for use.

4 Self Certification

ALA endorses the Joint Board's recommendation in paragraph 604 that "the Commission instruct the fund administrator to permit schools and libraries to self-certify that they have met

the three requirements” for eligibility, namely that eligible institutions:

- 1) Have a plan for securing access to all necessary supporting technologies needed to use purchased discounted services (Paragraph 601).
- 2) Have submitted their requests for services in writing to all service providers certificated [sic] by the state public utilities commission to serve the area in which the school or library is located and to the fund administrator (Paragraph 602).
- 3) Has submitted to all eligible service providers referred to in (2) above that the institution is eligible under section 254(h)(4) of the 1996 Telecommunications Act; that such requested services will be used solely for educational purposes; that such services will not be sold, resold or transferred in consideration for money or any other thing of value; and that if the services are being purchased as part of an aggregated purchase with other entities, the identities of all co-purchasers and the portion of the services being purchased by the school or library be listed. (Paragraph 603).

In addition, in paragraph 566 of the Recommended Decision, the Joint Board also recommends that eligible institution self-certify:

- 4) The eligible institution’s percentage discount based on whatever index criteria the Commission finally adopts (i.e., school lunch, residential poverty levels, etc.)

As was noted above, for libraries, ALA recommends that the percentage discount be indexed to percentage poverty level within a library’s service area or some derivative of that measure.

ALA believes that an eligible institution should be allowed to submit a simple self-certification of the four items described above in order to be eligible for discounts. Such a submission would be a sufficient, minimally burdensome way of qualifying for the discounts particularly if eligible institutions are required to maintain and make available records documenting compliance with each of the four items listed.

5 Consortia

In ALA's prior comments on consortia, ALA noted that the amended definitions in the new Library Services and Technology Act (LSTA) of "library" and "library consortium" add legitimacy to the desirability of enabling consortia of libraries and educational institutions or libraries of various types to qualify for universal service support. Any library consortium or cooperative arrangement of libraries or library entities that qualifies for assistance from a State library administrative agency under LSTA should be eligible for discounted rates.² ALA emphasizes that in the conference report on Section 254 of the Act, Congress did "intend that consortiums of educational institutions providing distance learning to elementary and secondary schools be considered an educational provider for purposes of this section."³ Such educational institutions providing support to elementary and secondary schools include academic libraries, research libraries, and other special libraries.

²ALA Comments on Questions in Public Notice of November 18, 1996 at 9

³H.R. CONF. REP. NO. 458, 104th Cong., 2d Sess. 134 (1996).

ALA thanks the Commission and its staff for its hard work in implementing the provisions of Section 254 of the 1996 Telecommunications Act and for this opportunity to provide additional input on its rulemaking.

Respectfully submitted,
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January 10, 1996

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of January, 1997
a copy of the foregoing "Reply Comments of
American Library Association on Questions in Public
Notice of November 18, 1996" was sent via first class
mail, postage prepaid, to the parties on the attached
list.

A handwritten signature in cursive script that reads "Sally F Benson" followed by a horizontal line.

Sally F. Benson

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